

## 36.209

or unit price contracts except with the prior approval of the head of the contracting activity.

### **36.209 Construction contracts with architect-engineer firms.**

No contract for the construction of a project shall be awarded to the firm that designed the project or its subsidiaries or affiliates, except with the approval of the head of the agency or authorized representative.

### **36.210 Inspection of site and examination of data.**

The contracting officer should make appropriate arrangements for prospective offerors to inspect the work site and to have the opportunity to examine data available to the Government which may provide information concerning the performance of the work, such as boring samples, original boring logs, and records and plans of previous construction. The data should be assembled in one place and made available for examination. The solicitation should notify offerors of the time and place for the site inspection and data examination. If it is not feasible for offerors to inspect the site or examine the data on their own, the solicitation should also designate an individual who will show the site or data to the offerors. Significant site information and the data should be made available to all offerors in the same manner, including information regarding any utilities to be furnished during construction. A record should be kept of the identity and affiliation of all offerors' representatives who inspect the site or examine the data.

### **36.211 Distribution of advance notices and solicitations.**

Advance notices and solicitations should be distributed to reach as many prospective offerors as practicable. Contracting officers may send notices and solicitations to organizations that maintain, without charge to the public, display rooms for the benefit of prospective offerors, subcontractors, and material suppliers. If requested by such organizations, this may be done for all or a stated class of construction projects on an annual or semiannual basis. Contracting officers may deter-

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mine the geographical extent of distribution of advance notices and solicitations on a case-by-case basis.

### **36.212 Preconstruction orientation.**

(a) The contracting officer will inform the successful offeror of significant matters of interest, including—(1) statutory matters such as labor standards (subpart 22.4), and subcontracting plan requirements (subpart 19.7); and (2) other matters of significant interest, including who has authority to decide matters such as contractual, administrative (e.g., security, safety, and fire and environmental protection), and construction responsibilities.

(b) As appropriate, the contracting officer may issue an explanatory letter or conduct a preconstruction conference.

(c) If a preconstruction conference is to be held, the contracting officer shall—

(1) Conduct the conference prior to the start of construction at the work site;

(2) Notify the successful offeror of the date, time, and location of the conference (see 36.522); and

(3) Inform the successful offeror of the proposed agenda and any need for attendance by subcontractors.

[59 FR 67049, Dec. 28, 1994]

### **36.213 Special procedures for sealed bidding in construction contracting.**

#### **36.213-1 General.**

Contracting officers shall follow the procedures for sealed bidding in part 14, as modified and supplemented by the requirements in this subpart.

[48 FR 42356, Sept. 19, 1983, as amended at 50 FR 1744, Jan. 11, 1985; 50 FR 52429, Dec. 23, 1985. Redesignated at 62 FR 272, Jan. 2, 1997]

#### **36.213-2 Presolicitation notices.**

(a) Unless the requirement is waived by the head of the contracting activity or a designee, the contracting officer shall issue presolicitation notices on any construction requirement when the proposed contract is expected to equal or exceed \$100,000. Presolicitation notices may also be used when the proposed contract is expected to be less than \$100,000. These notices shall be

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issued sufficiently in advance of the invitation for bids to stimulate the interest of the greatest number of prospective bidders.

(b) Presolicitation notices must—

(1) Describe the proposed work in sufficient detail to disclose the nature and volume of work (in terms of physical characteristics and estimated price range)(see 36.204);

(2) State the location of the work;

(3) Include tentative dates for issuing invitations, opening bids, and completing contract performance;

(4) State where plans will be available for inspection without charge;

(5) Specify a date by which requests for the invitation for bids should be submitted;

(6) State whether award is restricted to small businesses; and

(7) Specify any amount to be charged for solicitation documents.

(8) Be publicized through the Governmentwide point of entry in accordance with 5.204.

[48 FR 42356, Sept. 19, 1983, as amended at 50 FR 1744, Jan. 11, 1985; 50 FR 52429, Dec. 23, 1985; 51 FR 19716, May 30, 1986. Redesignated at 62 FR 272, Jan. 2, 1997, as amended at 66 FR 27414, May 16, 2001; 69 FR 59699, Oct. 5, 2004]

### 36.213-3 Invitations for bids.

(a) Invitations for bids for construction shall allow sufficient time for bid preparation (i.e., the period of time between the date invitations are distributed and the date set for opening of bids) (but see 5.203 and 14.202-1) to allow bidders an adequate opportunity to prepare and submit their bids, giving due regard to the construction season and the time necessary for bidders to inspect the site, obtain subcontract bids, examine data concerning the work, and prepare estimates based on plans and specifications.

(b) Invitations for bids shall be prepared in accordance with subpart 14.2 and this section using the forms prescribed in part 53.

(c) Contracting officers should assure that each invitation for bids includes the following information, when applicable:

(1) The appropriate wage determination of the Secretary of Labor (see subpart 22.4), or, if the invitation for bids

must be issued before the wage determination is received, a notice that the schedule of minimum wage rates to be paid under the contract will be issued as an amendment to the invitation for bids before the opening date for bids (see 14.208 and 22.404-3(b)).

(2) The Performance of Work by the Contractor clause (see 36.501 and 52.236-1).

(3) The magnitude of the proposed construction project (see 36.204).

(4) The period of performance (see subpart 11.4).

(5) Arrangements made for bidders to inspect the site and examine the data concerning performance of the work (see 36.210).

(6) Information concerning any facilities, such as utilities, office space, and warehouse space, to be furnished during construction.

(7) Information concerning the prebid conference (see 14.207).

(8) Any special qualifications or experience requirements that will be considered in determining the responsibility of bidders (see subpart 9.1).

(9) Any special instructions concerning bids, alternate bids, and award.

(10) Any instructions concerning reporting requirements.

(d) The contracting officer shall send invitations for bids to prospective bidders who requested them in response to the presolicitation notice, and should send them to other prospective bidders upon their specific request (see 5.102(a)).

[48 FR 42356, Sept. 19, 1983, as amended at 50 FR 1744, Jan. 11, 1985; 50 FR 52429, Dec. 23, 1985; 60 FR 48249, Sept. 18, 1995. Redesignated at 62 FR 272, Jan. 2, 1997, as amended at 68 FR 43856, July 24, 2003]

### 36.213-4 Notice of award.

When a notice of award is issued, it shall be done in writing or electronically, shall contain information required by 14.408, and shall—

(a) Identify the invitation for bids;

(b) Identify the contractor's bid;

(c) State the award price;

(d) Advise the contractor that any required payment and performance bonds must be promptly executed and returned to the contracting officer;